

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

UPSTATE NEW YORK ENGINEERS HEALTH FUND, by Daniel P. Harrigan, as Administrator; UPSTATE NEW YORK ENGINEERS PENSION FUND, by Daniel P. Harrigan, as Administrator; UPSTATE NEW YORK ENGINEERS S.U.B. FUND, by Daniel P. Harrigan, as Administrator; UPSTATE NEW YORK ENGINEERS TRAINING FUND, by Daniel P. Harrigan, as Administrator; CENTRAL PENSION FUND OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS AND PARTICIPATING EMPLOYERS, By Michael R. Fanning, as Chief Executive Officer; LOCAL 106 TRAINING AND APPRENTICESHIP FUND, by Daniel J. McGraw and Eugene Hallock, as Trustees and UPSTATE NEW YORK OPERATING ENGINEERS, LOCAL UNION NO. 158 (DISTRICTS 106 and 545), by Theron Hogle, as President,

Plaintiffs,

— against —

FIACCO AND RILEY CONSTRUCTION, INC., GENE P. FREGO, Individually and as an Officer of Fiacco and Riley Construction, Inc., and KRISTIN FREGO, Individually and as an Officer of Fiacco and Riley Construction, Inc.

Defendants.

STIPULATION AND  
ORDER OF  
DISCONTINUANCE  
WITH RIGHT TO  
REOPEN

Civil Action No.

5:12-CV-01887  
(FJS/ATB)

It is hereby stipulated and agreed, by and between the undersigned counsel, the attorneys of record for Plaintiffs and Defendants, no party being an infant or incompetent person or in the military service, as follows:

1. The action is settled in accordance with the terms of a Stipulation of Settlement, executed by the Defendants on February 17, 2015 and executed by Plaintiffs on February 25, 2015 which document is incorporated herein by reference and is referred to as "Stipulation of Settlement".

2. The action is discontinued, without prejudice, pursuant to FRCP Rule 41(a), subject to the terms and conditions of this Stipulation and Order and the parties' right to reopen the action.

3. The Court expressly maintains and retains jurisdiction over this action, the settlement, and the parties for purposes of enforcing the settlement, obtaining compliance with the terms of the

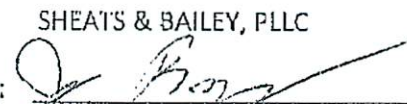
Stipulation of Settlement, and allowing Plaintiffs to proceed with entry of judgment against the Defendants in accordance with the terms and conditions of the Stipulation of Settlement.

4. In accordance with paragraph No. 3, the parties retain and are expressly granted the right to reopen this action to obtain compliance with the terms of the Stipulation of Settlement and to, among other things, allow Plaintiffs to proceed with entry of judgment against the Defendants in accordance with the terms and conditions of the Stipulation of Settlement.

DATED: March 3, 2015

DATED: 2/19, 2015

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SO ORDERED:

DATED: March 11, 2015



Honorable Frederick J. Scullin, Jr.  
Senior United States District Court Judge